

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KELLI MILES,

Plaintiff,

vs.

**MICHAEL J. ASTRUE, Commissioner of
the Social Security Administration,**

Defendant.

)
)
)
)
)
)
)
)
)
)

8:09CV81

MEMORANDUM AND ORDER

Defendant has filed an unopposed Motion (Doc. 17) to reverse and remand this action to Defendant pursuant to sentence four of Section 205(g), 42 U.S.C. § 405(g). For good cause shown,

IT IS ORDERED that defendant's Motion (Doc. 17) is granted, as follows:

1. The final decision of the Commissioner is reversed, and this matter is remanded pursuant to sentence four of section 205(g), 42 U.S.C. § 405(g)¹, for further review by the Appeals Council. The Appeals Council shall vacate its January 28, 2009 denial of plaintiff's request for review and shall determine whether the administrative law judge's September 2, 2008 decision is supported by substantial evidence in the record, taking into consideration both the record that was before the administrative law judge, as well as the new and material evidence previously submitted to the Appeals Council by plaintiff's attorney.

2. Judgment will be entered separately pursuant to Fed. R. Civ. P. 58.

DATED August 25, 2009.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**

¹Sentence four of 42 U.S.C. § 405(g) provides: "The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing."